

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

HARTFORD ACCIDENT AND INDEMNITY
COMPANY and FIRST STATE INSURANCE
COMPANY,

Plaintiffs,

v.

No. 4:08-CV-01687-CAS

THE DOE RUN RESOURCES CORPORATION
f/k/a ST. JOE MINERALS CORPORATION,

and

ZURICH AMERICAN INSURANCE COMPANY
as successor-in-interest to ZURICH INSURANCE
COMPANY, U.S. BRANCH

Defendants.

THE DOE RUN RESOURCES CORPORATION,

Counter-Claimant,

v.

HARTFORD ACCIDENT AND INDEMNITY
COMPANY and FIRST STATE INSURANCE
COMPANY,

Counter-Defendants.

**THE DOE RUN RESOURCES CORPORATION'S MOTION TO DISMISS COUNT
THREE IN HARTFORD'S COMPLAINT RE: BNSF FOR LACK OF
SUBJECT MATTER JURISDICTION**

The Doe Run Resources Corporation f/k/a St. Joe Minerals Corporation ("Doe Run") respectfully moves this Court for an Order dismissing Count Three of Hartford's

complaint as it relates to the case captioned BNSF Railway Company v. The Doe Run Resources Corporation, et al., Circuit Court for the City of St. Louis, State of Missouri, Cause No. 052-1585 (the “BNSF Action”). In support of this Motion, and pursuant to Local Rule 7-4.01, Doe Run respectfully submits the accompanying memorandum of points and authorities and Declaration of Marc Halpern.

Dated: August 28, 2009

Respectfully submitted,

ABELSON | HERRON LLP

By: /s/ Marc D. Halpern
Marc D. Halpern
Gwendolyn M. Toczko
501 West Broadway, Suite 800
San Diego, CA 92101
(619) 618-7000 (telephone)
(619) 618-7001 (facsimile)
mhalpern@abelsonherron.com
gtoczko@abelsonherron.com

Heather L. Mayer
333 South Grand Avenue, Suite 1550
Los Angeles, CA 90071
(213) 402-1900 (telephone)
(213) 402-1901 (facsimile)
hmayer@abelsonherron.com

*Counsel for Defendant and Counter-Claimant
The Doe Run Resources Corporation*

CERTIFICATE OF SERVICE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI – EASTERN DIVISION**

Hartford Accident And Indemnity Company, et al.

v.

The Doe Run Resources Corporation, et al.

District Court Case No. 4:08-cv-01687-CAS

I am over the age of 18 and not a party to the within action; I am employed by Abelson | Herron, LLP in the County of San Diego at 501 West Broadway, Suite 800, San Diego, California, 92101.

On August 28, 2009, I served the document below described as:

**THE DOE RUN RESOURCES CORPORATION'S MOTION TO DISMISS
COUNT THREE IN HARTFORD'S COMPLAINT RE: *BNSF* FOR LACK OF
SUBJECT MATTER JURISDICTION**

The document was served by the following means:

- × **BY ELECTRONIC TRANSMISSION VIA NEF** I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which sent Notifications of Electronic Filing to the persons at the e-mail addresses listed immediately below. Accordingly, pursuant to the Court's Local Rule 5-2.12, I caused the document to be sent electronically to the persons listed immediately below.

Theodore J. MacDonald, Jr., Esq.
Michael L. Young, Esq.
HEPLER BROOM, MACDONALD,
HEBRANK, TRUE & NOCE LLC
800 Market Street, Suite 2300
St. Louis, Missouri 63101
E-mail: tjm@heplerbroom.com
E-mail: mly@heplerbroom.com

Counsel for Plaintiffs and Counter-Defendants,
HARTFORD ACCIDENT AND INDEMNITY
COMPANY; and
FIRST STATE INSURANCE COMPANY

Russell F. Watters, Esq.
Timothy J. Wolf, Esq.
Patrick A. Bousquet, Esq.
BROWN & JAMES, P.C.
1010 Market Street, 20th Floor
St. Louis, Missouri 63101
E-mail: rwatters@bjpc.com
E-mail: twolf@bjpc.com
E-mail: pbousquet@bjpc.com

Counsel for Defendant,
ZURICH AMERICAN INSURANCE
COMPANY

Randolph P. Sinnott, Esq.
JoLynn M. Pollard, Esq.
SINNOTT, DITO, MOURA & PUEBLA, APC
707 Wilshire Boulevard, Suite 3200
Los Angeles, California 90017
E-mail: rsinnott@sdmp.com
E-mail: jpollard@sdmp.com

Counsel for Defendant,
ZURICH-AMERICAN INSURANCE
COMPANY

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on August 28, 2009 at Los Angeles, California.

/S/ Marc D. Halpern

Marc D. Halpern

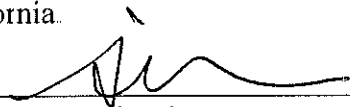
- × **BY U.S. MAIL** I enclosed the document in a sealed envelope addressed to the persons at the address listed immediately below and placed the sealed envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the said date, they are deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

James P. Ruggeri, Esq.
Joshua D. Weinberg, Esq.
HOGAN & HARTSON LLP
555 Thirteenth Street, NW
Washington, D.C. 20004

Counsel for Plaintiffs and Counter-Defendants,
HARTFORD ACCIDENT AND INDEMNITY
COMPANY; and
FIRST STATE INSURANCE COMPANY

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on August 28, 2009 at Los Angeles, California.



Soonja Bin